

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO**

Before the Honorable Lourdes A. Martínez, United States Magistrate Judge

Clerk's Minutes

CASE TITLE: *Robert N. Gilbert v. Occidental Petroleum Corp. and Occidental Permian Services, Inc.* **DATE:** May 5, 2009

CASE NO: CIV 08-0364 LFG/LAM

COURTROOM CLERK: Cathy F. Alvarez

PROCEEDINGS COMMENCED: 9:30 a.m.

PLAINTIFF(S)' ATTORNEYS PRESENT:

Joseph M. Zebas
Alexander B. Ching
Robert N. Gilbert - Plaintiff

REPORTER: N/A

COURT IN RECESS: 9:41 a.m.

DEFENDANT(S)' ATTORNEYS PRESENT:

Simon Garfield
Laura M. Franze

TYPE OF PROCEEDING: Telephonic Rule 16 Initial Scheduling Conference

COURT'S RULING(S):

The Court called the case and the parties entered their appearances. The Court inquired about who is going to be representing the Plaintiff? Mr. Zebas responded that Mr. Ching is not licensed in Federal Court and that he is planning on meeting with his client after this hearing to discuss this issue. Mr. Zebas further advised that he has yet to receive the right to sue letter. The Court can do one of two things 1) dismiss the case without prejudice; or 2) stay the case. Mr. Zebas would like to stay the case for sixty days because he is having a tough time getting the right to sue letter. Mr. Garfield would like for the case to move along, it cannot be dragged on. Mr. Garfield wants to clarify to the Court that he was not late on the JSR, he received it on Friday and had it ready by Monday and further advised that the EEOC in Dallas has no record of this charge and it could be in the Phoenix office. After further discussion, Mr. Zebas stated that he is willing to dismiss this case without prejudice and will refile the lawsuit once the right to sue letter is received. Mr. Zebas further added that now that defense has counsel, maybe they would be willing to accept service when the new lawsuit is filed. Mr. Garfield and Ms. Franze stated that they had no objection and will accept service. ***Mr. Zebas will be filing his motion to dismiss without prejudice by Friday, May 8, 2009.***

There being nothing further, Court was adjourned.